IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

WP(C).No. 28080 of 2007(P)

PETITIONER:

V.ANILKUMAR,
LIMLA MANDIRAM, KADAKKAVOOR P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.BALAGOVINDAN
SRI.M.R.SASITH

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVT., TAXES (G) DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE COMMISSIONER OF EXCISE,
OFFICE OF THE COMMISSIONER OF EXCISE,
THIRUVANANTHAPURAM.

3. MANAGING DIRECTOR,
KERALA STATE BEVERAGES CORPORATION,
THIRUVANANTHAPURAM.

R1 & R2 BY GOVERNMENT PLEADER (SMT. ANU SIVARAMAN)

R3 BY ADV. SHRI MILLU DANDAPANI.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 28080 OF 2007 P

Dated this the 24th September, 2007

JUDGMENT

Petitioner has approached this Court seeking a mandamus directing the respondents to start a retail shop room for selling liquors as evidenced by Ext.P2 within a time frame as may be fixed by this Court and also to direct the third respondent to consider and pass appropriate orders on Ext.P1 within a time limit.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the third respondent besides the learned Government Pleader. Ext.P1 is a request made by petitioner. It refers to Ext.P2. Ext.P2 is a Government Order wherein the Government has sanctioned opening of a new FL-1 shop with the existing kist rate to the third respondent Beverages Corporation at Kadakkavoor in Thiruvananthapuram District. According to petitioner, on the basis of the written willingness

given by him to the third respondent, he has made all arrangements for running the retail outlet by making suitable modifications in the building and there is no reply from the respondents as to when the Officers of the Beverages Corporation will occupy the building. It is stated that the Beverages Corporation being a Public Authority, is statutorily bound to keep transparency in all its dealings. It is also stated that Ext.P1 has been executed on the request by the third respondent. I note that Ext.P2 is dated 20.8.2007 while Ext.P1 is dated 24.8.2007. Learned counsel for the third respondent would submit that there was no request on their part. At any rate, petitioner is seeking a mandamus and mandamus can be issued only when there is a legal right. I am not satisfied that the petitioner has made out a case for issuance of a writ of mandamus to direct the respondents to start retail shop for selling liquor as evidenced by Ext.P2 within a time frame. The Writ Petition is dismissed. But, I make it clear that this will not

stand in the way of the third respondent deciding to start FL-1 shop in the premises of the petitioner in accordance with law.

K. M. JOSEPH, JUDGE

kbk.